

1 list.

2 Q Was a list containing information from
3 that program in the Public Inspection File when you
4 responded yes to section 3, question 2 of the renewal
5 application?

6 A I don't remember?

7 Q Since we had previously determined that
8 you didn't know who Ricardo Esway was, I take it you
9 didn't ask him to create a list for the Commonwealth
10 Club of California program for placement in the Public
11 Inspection File?

12 A No, I don't remember.

13 Q If you look at SFUSD Exhibit 53, page 1 --

14 A Okay, I see that.

15 Q -- was information about the Commonwealth
16 Club of California program in the public file when you
17 responded yes to section 3, question 2 of the renewal
18 application?

19 A I don't remember if there was information
20 about the Commonwealth Club in the file.

21 Q Did you ever ask Marty Nemko to produce a
22 list for the School and Career Talk program or the

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1 Work with Marty Nemko program for placement in the
2 Public Inspection File?

3 A I don't remember.

4 Q If you look at SFUSD Exhibit 54, page 3 --

5 A Okay.

6 Q -- was a list containing that information
7 from the Marty Nemko programs in the Public Inspection
8 File when you responded yes to section 3, question 2
9 of the renewal application?

10 A I don't remember if this was in there.

11 Q Did you ever ask Chuck Finney to produce
12 a list for the Your Legal Rights program for placement
13 in the Public Inspection File?

14 A I don't remember.

15 Q If you would take a look at SFUSD Exhibit
16 55 beginning at page 2 going to page 38 -- certainly
17 you don't have to study the pages, but the questions
18 are all the same. Does a list containing the
19 information from the Your Legal Rights program in the
20 Public Inspection File when you responded yes to
21 section 3, question 2 of the renewal application?

22 A I don't remember.

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1 Q Referring you to SFUSD Exhibit, a
2 different binder now.

3 MR. PRICE: Are we done with that binder?

4 MR. SHOOK: For now. Now I'm going to
5 give you a workout. Do you have Exhibit 8 in front of
6 you?

7 MR. PRICE: That's the memo?

8 THE WITNESS: Okay.

9 BY MR. SHOOK:

10 Q Looking at page 2, there's a reference
11 there to a program called Making the Grade.

12 A Oh, okay. I see that.

13 Q Did you ask Sandina Robins to produce a
14 list of her Making the Grade programs for placement in
15 the public file?

16 A I don't remember if I did.

17 Q Now, moving back to your testimony, which
18 is SFUSD Exhibit T1 at page 14. After the question
19 what did you do next, if you could just read your
20 answer to yourself.

21 A Okay.

22 Q Now, in your testimony you reference pages

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1 5 through 7 of a list of City Visions programs. Are
2 you telling us that you actually saw those pages in
3 the Public Inspection File before you completed the
4 renewal application?

5 A No, I don't remember.

6 Q Do you recall any of the circumstances
7 related to your seeing pages 5 through 7 of the list
8 of City Visions programs for the first time?

9 A I think I remember the first time seeing
10 this as an exhibit with the GGPR petition that they
11 labeled Exhibit O.

12 Q Did you ever ask anyone what happened to
13 the first four pages?

14 A You mean at the time --

15 Q Ever.

16 A Just recently.

17 Q Just recently?

18 A Yes.

19 Q Who did you ask?

20 A It was at my deposition in November of
21 2004.

22 Q So, you were probably either asking me or

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1 asking somebody else?

2 A Yes.

3 Q But other than, other than the deposition
4 you had not inquired previously about what happened to
5 the first four pages of the City Visions list?

6 A Honestly, it wasn't until the deposition
7 when I really noticed that what I had been agreeing to
8 was Exhibit O. Again, this is kind of legally, this
9 is -- I'm not a lawyer and I wasn't paying close
10 enough attention that Exhibit O was pages 5 to 7.

11 In my mind through the time when I did the
12 declaration in 1998 I had always thought Exhibit O was
13 the full seven-page document and not the sample that
14 GGPR had attached to their petition, which was pages
15 5 through 7. I just wasn't playing that close
16 attention. In my mind I was thinking Exhibit O was
17 the full document.

18 Q In terms of the City Visions program --
19 this is going to be a little bit tricky with
20 projecting yourself back to the time of the renewal
21 application, did you have an understanding at that
22 time as to how long the City Visions program had been

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1 on the air?

2 A No. No, I didn't know how long it had
3 been on the air.

4 Q You knew that there was a City Visions
5 program, you knew that it broadcast once a week?

6 A Yes.

7 Q It was Monday night, it went for an hour.
8 You hadn't talked to John or Rose to just get an idea
9 of how long the program had been on?

10 A No. I don't remember ever asking how long
11 it had been on the air.

12 Q So, I take it then that you never asked
13 John Covell to give you pages 1 through 4 of that list
14 seeing as how we only have pages 5 through 7?

15 A I'm not sure if I understand the question.
16 I didn't come to the understanding that Exhibit O was
17 only pages 5 to 7 until just seven or eight months
18 ago.

19 Q Right. So there wouldn't have been any
20 occasion for you to actually ask John Covell hey what
21 happened to the first four pages?

22 A Correct.

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1 Q Now, if you could, place before the
2 witness EB Exhibit 5 and the page that I want him to
3 focus on is marked initially as page 21, but with the
4 entire petition it would now be page 7.

5 A Okay.

6 Q Mr. Ramirez, I had asked you during your
7 deposition whether you knew whose handwriting it
8 appeared in the upper right corner and it's a little
9 bit blurry now. Our understanding is that that's
10 supposed to be -- the upper right hand corner of the
11 exhibit it's supposed to be a 7/23.

12 A Okay.

13 Q Do you know now who placed 7/23 on that
14 document?

15 A No, I don't.

16 Q While you were general manager, did
17 William Helgeson have any responsibilities vis-à-vis
18 the public file?

19 A No. I didn't expect Bill to have any
20 responsibilities. He'll follow through on work I give
21 him, but no. I mean -- upon understanding the
22 significance of the Public Inspection File, I realize

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1 that it was so important that I had to take it upon
2 myself to take on that responsibility.

3 Q Before the station moved in December of
4 1996, where was the public file actually maintained?

5 A The drawer that held the public file was
6 in a filing cabinet that was located in an open area -
7 - well the whole gymnasium was an open area so
8 everything was an open office space. There was an
9 area that was even more open than the parts that had
10 temporary walls, which was kind of like the operations
11 area. The filing cabinet was in that location.

12 Q After the station moved, where was the
13 public file maintained?

14 A It was located in relatively the same
15 location it was in the old place, which is another way
16 of saying that the operations area as best as possible
17 was replicated in the new station.

18 Q So basically the drawer or the set of
19 drawers, one of which had the public file, the whole
20 set of drawers was simply picked up and moved --

21 A The whole filing cabinet.

22 Q -- the whole filing cabinet. Did there

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1 ever come a time when you believed that documents were
2 being removed from the public file but not returned?

3 A No, I don't think I ever came to that
4 belief.

5 Q According to bills from the Sanchez Law
6 Firm, EB Exhibit 7, page 2, Item 2067 you were
7 notified by a telephone call from Mr. Sanchez on
8 September 16, 1997 about Golden Gate Public Radio.
9 According to the billing reference here, Mr. Sanchez
10 was being rather precise.

11 He has this billed at .77. I'm not even
12 sure what .77 hours is, but in any event that's what
13 Mr. Sanchez billed you for. It involved a call to you
14 and Mr. Palacio re: Golden Gate Public Radio. Do you
15 recall being in a conference call with Mr. Palacio and
16 Mr. Sanchez about Golden Gate Public Radio?

17 A No. I don't remember this call.

18 Q Even though it went for, well, roughly
19 three quarters of an hour, according to Mr. Sanchez'
20 bill anyway.

21 A Today I don't remember this call. No.

22 Q Next, according to Mr. Sanchez' bills, the

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1 same page, two items down, Item 2115. Slightly more
2 than two weeks later, Mr. Sanchez had a conference
3 with you about a letter and he also apparently faxed
4 something to you. Is SFUSD Exhibit 6, pages 3 through
5 6 what he faxed to you?

6 JUDGE SIPPEL: That number again SFUSD --

7 MR. SHOOK: Exhibit 6, pages 3 through 6.

8 THE WITNESS: Okay, I see this.

9 BY MR. SHOOK:

10 Q Was pages 3 through 6 what Mr. Sanchez
11 faxed to you on October 2, 1997?

12 A I don't remember if this was faxed or if
13 the two are related. I don't remember.

14 Q I'm just drawing that inference from
15 looking at the top of the document, and it seems to
16 reflect a fax transmission.

17 A Yes. It does seem to connect in that way.

18 Q Is that what it appears to you, that it's
19 a fax transmission?

20 A Oh, yes.

21 Q And that it was transmitted on October 2,
22 1997?

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1 A Yes.

2 Q From the Sanchez Law Offices?

3 A Yes.

4 Q The pages that were apparently transmitted
5 on that day include some additional material because
6 if you look at the top right from the fax transmission
7 information it appears that the pages that we have in
8 SFUSD Exhibit 6, pages 3 through 6 represent pages 4
9 through 7 of some fax transmission.

10 A Okay. I see that.

11 Q Do you see that?

12 A Yes.

13 Q Do you have any recollection at all as to
14 what the first three pages would've been?

15 A No, I don't.

16 Q According to your testimony at page 17,
17 SFUSD Exhibit T1, page 17, and if you don't -- don't
18 close that. Also SFUSD Exhibit 6, page 1, item 3.
19 Those are the two things that I want you to focus on
20 now.

21 A Okay what was --

22 Q The first one is your testimony at page

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1 17.

2 A Okay.

3 Q In conjunction with looking at SFUSD
4 Exhibit 6, pages 1 and 2.

5 A Okay, I see that.

6 Q As I understand this, these two documents
7 or these two pieces of evidence -- it appears that you
8 believe that Golden Gate Public Radio's view about the
9 deficiencies of the Public Inspection File had some
10 merit. That seems to be how you're answering the
11 questions.

12 A Yes. I think that Ernie Sanchez had asked
13 me to assess the list and then he suggested these
14 three questions and then I provided him with my
15 assessment.

16 Q Do you recall how you came to the
17 conclusion that you should answer the three questions
18 yes, yes, yes and then will correct with explanation,
19 whatever that means.

20 A Well, the best that I can conclude is that
21 here in the memo it says that I referred to the
22 guidelines contained in the manager's handbook. I

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1 think that's how I came up with my assessment.

2 MR. PRICE: When you say here in the memo,
3 can you identify for the record what page you're
4 referring to?

5 THE WITNESS: It's on page 1 of the SFUSD
6 Exhibit 6. The sentence is in regard to FCC public
7 file requirements I refer to the guidelines contained
8 in the NPR station manager's handbook.

9 BY MR. SHOOK:

10 Q And the NPR station manager's handbook was
11 supposed to be the two pages that you looked at, are
12 pages 7 and 8 of SFUSD Exhibit 6?

13 A Which pages were those again?

14 Q Pages 7 and 8 of SFUSD Exhibit 6.

15 A Yes. I think so. Just say for the record
16 that I just recently saw this memo and whatever might
17 have been attached to it from recently. I didn't see
18 this prior to my 2004 deposition.

19 Q Right.

20 A This was found in a file drawer just
21 recently.

22 Q Right.

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1 A Okay.

2 Q Right. No, we hadn't seen it either,
3 which is why we didn't ask you about it before.

4 A Okay.

5 Q Now, stepping back to October of 1997, you
6 get this memo from, or you get this set of questions
7 rather, from your counsel, and you start reviewing
8 things. One of the things that you look at is pages
9 7 and 8 of SFUSD Exhibit 6, but I take it you also
10 took another look at the public file at that point?

11 A Yes. I imagine I would've had to look at
12 the public file again to provide this assessment.

13 Q Conceivably, you could've just worked from
14 memory and you look at what GGPR is arguing or
15 claiming. You also look at the materials that counsel
16 sends you about the MPR station manager's handbook and
17 you say to yourself uh oh, this charge that GGPR has
18 made has some merit. That conceivably is one way that
19 that could have happened as well.

20 A That's conceivable as well. I don't
21 remember actually seeing this memo for the first time
22 after a long time, just about a month ago. I didn't

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1 even remember this.

2 Q Right. What I'm thinking is that the
3 documents you got from counsel -- first of all it's
4 four pages long. It's very detailed.

5 There are -- according to this it looks
6 like 28 points of some kind that you are now being
7 asked to spend a certain amount of time trying to
8 assess where there is some merit to this, whether this
9 is nonsense, and if there's some merit to it, what you
10 were going to do about it because you had these three
11 questions to ask yourself.

12 With all that in mind, in terms of the
13 public file aspect of it, when you got this document
14 from counsel and you started thinking to yourself,
15 well how do I answer this, did you look at the public
16 file or you just don't remember?

17 A I don't remember looking in to that.

18 Q But whatever it was that you did, you
19 decided that apparently there was some merit to what
20 GGPR was charging, at least with respect to the public
21 file aspect of the arguments.

22 A Yes. Just -- well, like I said in my

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1 testimony, when I was responding yes I was informing
2 Ernie that yes, there might be a problem here.

3 Q Then the will correct with explanation,
4 that was we'll correct what with explanation?

5 A Today I'm not quite sure exactly what that
6 means.

7 Q Were you going to correct the renewal
8 application?

9 A Again, today I'm not quite sure what that
10 means.

11 Q Did you ever actually provide an
12 explanation as reflected in SFUSD Exhibit 6, page 1,
13 point 3?

14 A You mean to current exemptions?

15 Q To anyone.

16 A I don't remember.

17 Q At this time you really can't tell us how
18 you came to the conclusion that you should answer
19 those questions yes?

20 A Correct.

21 Q Mr. Sanchez' bills to SFUSD, EB Exhibit 7,
22 page 3, item 2124 indicate that on October 6, 1997 Mr.

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1 Sanchez reviewed the fax, the fax that you had sent
2 him and allegations by Golden Gate Public Radio.
3 Would it be your understanding of what Mr. Sanchez was
4 reviewing at the least was SFUSD Exhibit 6, pages 1
5 and 2?

6 A Yes, that would be my best guess. Yes.

7 Q Do you have any reason to believe it was
8 anything else?

9 A No. Again, my best guess is that this
10 memo is what's referred to herein -- report.

11 Q EB Exhibit 7, page 3, Items 2132 and 2133
12 reflect that on October 8, 1997 Mr. Sanchez had two
13 conferences with you to review potential petition to
14 deny points. Apparently one of these conferences
15 lasted an hour and the other one lasted an hour and 20
16 minutes. Do you see those references on the bill?

17 A Yes, I do.

18 Q Did you explain to Mr. Sanchez on October
19 8, 1997 why you believed the Public Inspection File
20 charge made by Golden Gate Public Radio may have had
21 some merit?

22 A I don't remember what I discussed with

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1 Ernie Sanchez in those files.

2 Q Do you have any recollection as to whether
3 or not you told Mr. Sanchez on October 8, 1997 that
4 the Issues Program Lists had not been placed in the
5 Public Inspection File on a quarterly basis during
6 your tenure as general manager?

7 A I don't remember if I did.

8 Q At that time, did you tell Mr. Sanchez
9 that Issues Programs Lists may not have been placed in
10 the Public Inspection File on a quarterly basis during
11 the license term in addition to just the time when you
12 were general manager?

13 A I don't remember if I did.

14 Q I'm going to have you read to yourself
15 SFUSD Exhibit 6, page 3, point number 2, recognizing
16 that the print of the photocopy is very, very
17 difficult to read. Just read that to yourself please.

18 A Which number point is it?

19 Q Point 2.

20 A I just -- this is the one -- I think it
21 says ownership report?

22 Q Yes.

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1 A Okay.

2 Q Now, so -- just so we're looking at the
3 same thing -- talking about the same thing, as best as
4 I can tell what the bullet point reads is that
5 supplemental ownership reports 323(e) since January
6 1991 are not in the station's public files and may not
7 have -- and then I can't really read it.

8 Something about filed with the commission.
9 The membership of the Board of Education has changed
10 frequently since that time.

11 JUDGE SIPPEL: Is there anything,
12 Mr. Shook to get a better -- clearer copy of this?

13 MR. SHOOK: I think we're doing the best
14 we can with very old material.

15 MR. PRICE: We don't have the original of
16 this document. I think we have some of these
17 questions repeated in a separate document, but it
18 wasn't matched up documents so what we tried to as
19 best we can with his testimony recognizing that over
20 many copies of this -- this has probably -- it's
21 gotten progressively worse.

22 But we probably have something slightly

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1 better that we started with, and that's how we tried
2 to reprint in the testimony on page 17, Your Honor,
3 the questions as best we could decipher them.

4 JUDGE SIPPEL: I see. I see.

5 MR. PRICE: You'll see that question 1B
6 and 2 reprinted in the direct testimony as best we
7 could decipher it from our copy.

8 JUDGE SIPPEL: Okay. We'll make do with
9 that then. My deciphering probably wasn't a whole lot
10 different, which is why I didn't hear an objection
11 from your side.

12 MR. PRICE: No, I think that's right. I
13 was reading along with our testimony. I think the one
14 sentence with may not have been filed with the
15 commission was the only thing that we had corrected.

16 BY MR. SHOOK:

17 Q -- My question was in your conversations
18 with Mr. Sanchez on October 8, did you tell him that
19 you could not find ownership reports, supplemental
20 ownership reports, that reported changes in the school
21 board following the '92 and '94 elections?

22 A I don't remember that.

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1 Q If you look at SFUSD Exhibit 6, page 1,
2 Point 2, it appears to be addressing --

3 A Which page?

4 Q SFUSD Exhibit 6, page 1, Point 2.

5 A Okay.

6 Q It also appears to be addressing the
7 questions that we just went over and it would seem
8 that again what you're saying is yes those reports
9 weren't in the public file. That's what I understand
10 from your responses.

11 A Yes, and like I said in my testimony
12 that's what I think it means too.

13 Q That again this is something that you plan
14 to correct with an explanation according to what
15 appears after point 2.

16 A Yes, that's the best I can guess today.

17 Q All right. Do you recall ever preparing
18 such an explanation to correct whatever it is that you
19 wanted to correct?

20 A No, I don't.

21 Q Do you recall at or about that time Mr.
22 Sanchez telling you that your belief that the Golden

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1 Gate Public Radio allegations concerning the Public
2 Inspection File had merit were wrong?

3 A No, I don't remember that.

4 Q Did you shortly thereafter conduct an
5 inventory of the KALW Public Inspection File?

6 A No, I don't remember doing that.

7 Q I'd like to refer you to EB Exhibit 7,
8 page 3, Item 2151.

9 A Okay, I see that.

10 Q According to this entry, on October 17,
11 1997, Mr. Sanchez reviewed a fax from you with
12 inventory of public file. With having looked at this
13 reference, does this bring to mind whether or not at
14 or about that time you conducted an inventory of the
15 public file?

16 A No, it does not.

17 Q Do you have any recollection whatsoever of
18 sending a fax to Mr. Ramirez with an inventory of the
19 public file?

20 A I think you meant to say Mr. Sanchez.

21 Q Excuse me. Mr. -- let me try again. Do
22 you have any recollection of sending to Mr. Sanchez on

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1 October 17, 1997 a fax with an inventory of the public
2 file?

3 A No, I don't remember doing that.

4 Q Did you ever write out an inventory of the
5 public file to your recollection?

6 A No, I don't remember doing that.

7 Q Do you have any reason to disbelieve that
8 there was an inventory actually sent to Mr. Sanchez on
9 October 17, 1997 by you?

10 A No, I don't.

11 MR. PRICE: Your Honor, I don't know where
12 Mr. Shook is in his questioning. I certainly don't
13 want to cut him off if he's in the middle of a
14 particular line of questioning, but we have been going
15 for a while. If we could take a break at some point
16 whenever it is appropriate.

17 MR. SHOOK: I'm pretty close to it. I
18 mean another question or two and then I'd be at a
19 suitable break point.

20 JUDGE SIPPEL: All right. Fine.

21 BY MR. SHOOK:

22 Q Do you have any recollection of asking

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1 anyone to prepare an inventory of the public file in
2 October of 1997?

3 A No, I don't.

4 Q Would there be -- given who was at the
5 station at about this time, the employees and the
6 volunteers, would there have been anybody that you
7 would have entrusted such a task to?

8 A I don't remember.

9 Q Having gone down the road with Susan
10 Hecht, you weren't going to go down that road again?

11 A Yes. I don't remember asking anyone to
12 put together any kind of inventory at that time.

13 Q You viewed yourself as the person who was
14 responsible for maintaining and updating the public
15 file, correct?

16 A Yes. At that point I had taken it upon
17 myself to take responsibility of that.

18 Q So there wouldn't be any reason to believe
19 that anybody other than yourself would have prepared
20 an inventory if this bill reference here is accurate?

21 A Yes, I suppose. Yes.

22 MR. SHOOK: We can break.

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1 JUDGE SIPPEL: All right. Let's see,
2 we'll come back in 15 minutes based on that clock in
3 the back there. Figure 15 minutes be back here. Is
4 that all right?

5 MR. PRICE: Do you have any idea, do you
6 have an expectation as to whether we're going to run
7 through today with Mr. Ramirez, whether we might get
8 to Mr. Helgeson or how much time I may have for
9 redirect at the end?

10 MR. SHOOK: We certainly won't get to Mr.
11 Helgeson. As far as my finishing those -- assuming I
12 can talk as fast or faster than I have been during the
13 last segment, we actually ought to get there.

14 Now, as far as your redirect is concerned,
15 if you -- depending on how much you think you have and
16 whether you want to try to accomplish it this evening,
17 certainly I've got no problem staying put. But
18 basically it's up to the judge and the witnesses'
19 desire as whether or not he wants to --

20 MR. PRICE: Your Honor, if we could --
21 it's certainly at the judge's discretion whether we
22 work to finish today or bring Mr. Ramirez back

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